IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 26112 of 2003

Between:

Smt.D.Sridevi, w/o late Sai Ram,
r/o Quarter No.256(C), Sector-6, Ukkunagaram,

Visakhapatnam District.

..... PETITIONER

AND

1 The Vice Chairman & Managing Director, Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad.
2 The Regional Manager, Andhra Pradesh State Road Transport Corporation, Srikakulam Region, Srikakulam, Srikakulam Dist.,
3 The Depot Manager, Andhra Pradesh State Road Transport Corporation, Srikakulam-II Bus Depot, Srikakulam, Srikakulam Dist.,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing the proceedings dt.21-10-2003 wholly illegal, arbitrary and unjust, and set-aside the same and consequently direct the respondents to consider the case of the petitioner for appointment to the post of Attender/or any suitable clerical post/or Sharmic post on compassionate grounds.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondents: MR. Y. VIVEKANANDA SWAMY (SC for APSRTC)

The Court made the following :

ORAL ORDER:

The petitioner questions the order of second respondent- Regional Manager, Andhra Pradesh State Road Transport Corporation (APSRTC), Srikakulam Region, dated 21.10.2003 in rejecting her application for relaxation of her under height by 4.5 centimeters for the post of Conductor.

It is submitted that the petitioner's husband was appointed as Conductor on 29.01.1997 in the respondent-corporation and while he was in service he died on 29.11.2000. As on the date of death of the petitioner's husband, the petitioner and her son, aged about four years, are only left behind him. As the only breadwinner died it has become difficult for them to eke-out their livelihood. It is stated that the respondent-Corporation has introduced a Breadwinner scheme under which the son/spouse/dependants of the deceased employee are entitled for suitable employment. The petitioner is a Graduate in B.Com. Degree and also having technical qualification of Typewriting higher grade and consequent upon the death of her husband, the petitioner filed an application for the post of Conductor on 03.03.2001 under the Breadwinner scheme as her husband died on 29.11.2000

while working as Conductor in Srikakulam Depot. The said application was considered by the committee and rejected the same on the ground that as per the circular No.PD-68/2000, dated 30.11.2000, the under height can be relaxed upto 7 centimeters in respect of lady dependants of employees who died in harness in case of deaths occurred on or before 04.11.2000, but the husband of the petitioner died on 29.11.2000.

Any circular issued by the respondents cannot have retrospective effect and it will come into operation from the date of circular only. Admittedly the husband of the petitioner died one day before the circular No.PD-68/2000, dated 30.11.2000 and therefore the relaxation of under height made in respect of women candidates is also must be made applicable to the case of the petitioner. There is no logic in fixing the cut off date in respect of the persons died on or before 04.11.2000. But, in the counter it is stated that there is another notification No.PD-7/2001, dated 29.03.2001 relaxing the under height upto 7 centimeters to the post of Conductor in case of death occurred on or before 4.11.2000, but the husband of the petitioner expired on 29.11.2000 i.e., after cut off date of 04.11.2000 and before issuance of the circular, therefore the petitioner is not entitled for the relaxation.

The petitioner is B.Com. graduate having technical qualification of Typewriting higher grade and admittedly her husband died while he was in service of the respondent-Corporation. There is no justification to fix cut off date with retrospective effect to extend the benefit of circular No.PD-68/2000, dated 30.11.2000 in respect of lady dependants of employees who died in harness in case of deaths occurred on or before 04.11.2000. The cases of the lady dependants of the employees who died before 04.11.2000 and upto the date of the circular cannot be distinguished and all the cases of the lady dependants of the employees who died in harness have to be dealt with as on the date of circular No.PD-68/2000, dated 30.11.2000

Accordingly, the impugned order is set aside and the respondents

are directed to consider the case of the petitioner by relaxing her under height by 4.5 centimeters and pass appropriate orders within six weeks from the date of receipt of a copy of this order to appoint her to any suitable post viz., Conductor, Clerk, or Attender or any other post to which she is entitled.

The Writ Petition is accordingly disposed of. No costs.

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21st July, 2004

*Nsr

To

1 The Vice Chairman & Managing Director, Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad.
2 The Regional Manager, Andhra Pradesh State Road Transport Corporation, Srikakulam Region, Srikakulam, Srikakulam Dist.,
3 The Depot Manager, Andhra Pradesh State Road Transport Corporation, Srikakulam-II Bus Depot, Srikakulam, Srikakulam Dist.,

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